

BOOK REVIEWS

AN ANALYSIS OF KNOWLEDGE AND VALUATION. By Clarence Irving Lewis.¹ Paul Carus Lectures, Seventh Series, 1945. LaSalle, Illinois: The Open Court Publishing Company. 1946. Pp. xxi, 567. \$6.00.

Most of our judges and law professors spend a large part of their lives justifying or criticizing various human arrangements known as legal rules or decisions, and yet when the circuit of their tasks is interrupted by an inquiry into just what it is that they are doing when they justify or criticize, they are apt to react with more heat than light. For the intellectual fashion of our times requires them to hold that justification and criticism are matters of personal emotion and uncertainty, while the dictates of their profession require them also to maintain that what they are doing has a firm basis in certain and objective truth.

Faced with the modern version of Samson's riddle — how to draw the honey of objective certainty from the lions of passion and emotion — our jurists have offered three divergent answers, none of which can command much respect. Some have denied that there can be any certainty or objectivity in law, but the most energetic of these, upon donning judicial robes, has had to profess an appeal to something more than the uncertainties of his own subjective emotions when he has reversed the decision of a lower court. At the other extreme, there are a few judges and law teachers who, under the influence of Thomism, Marxism, or some other absolutistic metaphysics, insist that the certainties of law are properly derivable from the certainties of morality. But the great majority of those who write professorial texts or judicial opinions try to save the certainty of law and the uncertainty of ethics by denying that law and ethics have any necessary connection with one another.

Out of this effort to separate law from the secret juices that give it life there has sprung a maze of pseudo-logics, crypto-rationalisms, and nominalistic positivisms that have in common only a common sterility. Law is given protection from contamination by human needs through the age-old method of discreet nomenclature. The facts one dislikes are called theories; the theories one cherishes are dubbed facts. Law must retain its integrity by steering clear of social "theory." Many years ago Holmes wrote of this attitude:

Perhaps one of the reasons why judges do not like to discuss questions of policy, or to put a decision in terms upon their views as law-makers, is that the moment you leave the path of merely logical deduction you lose the illusion of certainty which makes legal reasoning seem like mathematics. But the certainty is only an illusion, nevertheless.²

Professor Lewis' latest book addresses itself to the basic question of how the objective certainty that we demand of justice can be derived from the emotional vagaries of subjective valuations. The answer given

¹ Edgar Pierce Professor of Philosophy, Harvard University.

² *Privilege, Malice, and Intent*, 8 HARV. L. REV. 1, 7 (1894).

to this question marches for 362 pages through preliminary considerations of logic and epistemology before it comes to grips with the problem of values; the last 190 pages are devoted to a closely reasoned analysis of this problem. The volume embodies a large part of the life work of a distinguished teacher and a patient thinker and is so written that a patient reader would have to devote proportional time and effort to an adequate understanding and fair appraisal of the work. Yet if Holmes, who thought that Kant should have been able to explain his main ideas to a young lady in ten minutes after dinner,³ had made a similar demand upon Lewis, it seems to me that he might have responded in something like these words:

Subjectivism in ethics, the notion that normative statements are of merely emotive significance, is a pathological development arising out of misunderstanding of modern science. This sickness of contemporary thought can be cured by recognition that there is a subjective element in value judgments, but in exactly the same way there is a subjective element in judgments of heat, cold, light, color, weight, pressure, and everything else that is the object of human experience. No scientific statement would have any meaning if it could not be tested by such subjective personal experiences as our experiences of color, pressure, etc. Indeed, the meaning of any scientific statement consists essentially of the summarization or prediction of such experiences, past, present, and future, actual, probable, and possible. What saves science from being a planless succession of daydreams is that there are connections among our own and other people's subjective experiences which are not always too abstruse for human understanding. Consequently, men, or at least some men, are able to think about, anticipate, and make conscious use of a world beyond the egocentric here-and-now. Such understanding and manipulation go beyond merely subjective impressions, in ethics as in other fields of knowledge. Thus, "evaluations of things are objective and cognitive, and are not relative to particular persons or circumstances or occasions in any fashion which differentiates them from attributions of other properties to objects" (p. 458).

All this, Lewis would say, is very far from the transcendentalist position that ethical truth is independent of subjective experience. But ethical truth may be dependent upon subjective factors without being identical with them. For whenever we go beyond the immediacy of felt experience to think or say anything about it we run the risk of error. And this is as true of values as of colors or weights. "At least half of the world's avoidable troubles are created by those who do not know what they want and pursue what would not satisfy them if they had it" (pp. 372-73). However, although the subjective element is necessary in all knowledge, knowledge is more than immediate perception. Knowledge is, for Lewis, a part of life and therefore a part of human action. Even such knowledge as cannot be refuted by any experience we may ever have—for example, our knowledge of laws of logical or mathematical inference, or our knowledge that gold is metallic, or that men

³ *Holmes-Cohen Correspondence*, 9 J. HIST. IDEAS 3, 22 (F. S. Cohen ed. 1948).

are able, under certain conditions, to think — always involves a subjective element in that such “analytic truth” is a function of our own definitions, and one may attach to words “any self-consistent signification that one may choose” (p. 16). If we define gold as a certain metal, then we know in advance that whenever and wherever gold may be found we shall find a metal, and no fact could persuade us of the contrary; so, with the *a priori* truths of logic. In short, even the most impersonal and objective statements we can make involve a subjective element.

Subjectivists in ethics go wrong, Lewis thinks, in not taking their subjectivism seriously enough, in using it, perhaps, only as a weapon against moral ideas which are in conflict with their own secret moral beliefs. If they took their subjectivism seriously, and applied it systematically to all fields of experience, they would find man’s “egocentric predicament” (to use Perry’s phrase) all-pervasive. Being all-pervasive, it cannot serve as an excuse for separating the uncertainties of ethics from the pretended certainties of law, economics, or physics. Life is too deeply tinged with the subjective, the uncertain, and the precarious to leave any sense in such a separation.

If this is a fair summary of what Lewis is saying, then he has shown that the principle of polarity can make a solid contribution to our thinking about ethical knowledge and knowledge in general. If any substantial number of our juristic thinkers have the stamina to read through the Lewis treatise, we may find in the juristic literature of coming decades a less confident reliance upon the subjectivity of morals and the objectivity of everything else than we have found in the judicial opinions and professorial treatises of the past century. And one may hope that in the field of ethics Lewis’ volume will stimulate a revival of the effort to explore the geography of human enjoyments and sufferings. A useful geography of values might do for the law reform of the coming century what the work of Bentham did for the century of law reform that he initiated. But one must admit that Lewis’ book is not likely to have such an effect unless the author’s colleagues in ethical fields pay more respectful attention to his ideas than he has paid to theirs.

Perhaps it is only the vocational prejudice of an old law review editor that would notice the number of times that Lewis advances ideas developed by coworkers without giving them credit — Bertrand Russell and Morris R. Cohen, who have said most of what Lewis has to say about the nature of value and the scientific method, are not mentioned in the index. And perhaps it would be captious to criticize Lewis for misunderstanding the position taken by some of his opponents; for after all, no two philosophers ever quite understand each other. (This review surely constitutes no exception.) But more serious than any failure to mention thinkers he follows or to understand those he attacks is the author’s failure to take advantage of the work of contemporaries who have found ways across barriers that he still regards as insurmountable.

The chief purpose of this volume is to establish the possibility of systematic ethical judgments comparable to the systematic connected judg-

ments of natural science. In this task Lewis finds two special difficulties: the supposed chasm between the "good" and the "right," and the issue of the commensurability of values. As to the former, the work done on the basis of modern logic in establishing the interconnection of "good," "bad," "right," "wrong," and all other moral categories is overlooked by Lewis, who dismisses logical inquiries into this subject as "useless pedantry" (pp. 511, 551) — a strange epithet from one of America's top-flight logicians, a writer of abstruse tomes who likes to denounce "argument by epithet," and who is surely sophisticated enough to see that "useless pedantry" is only a dyslogistic equivalent of "priceless teaching." The result is that on the last page of his journey Lewis stops at what he views as an unbridgeable chasm between goodness or value, which he considers "empirical," and rightness or justness, which he leaves in a nonempirical realm of complete mystery (p. 554).

Equally disappointing is Lewis' failure to take account of the work of fellow logicians who have shown that the traditional objections to quantitative views of happiness or suffering are based upon an invalid conception of quantity. One does not need instruments to know that the suffering of a concentration camp is greater than the suffering involved in the execution of a dozen Nazi murderers, any more than one needs instruments to know that there is more nourishment in a pound of roast beef than there is in two pounds of lettuce, or that spading and cultivating half an acre involves more work than picking melons therefrom. Without such sensible recognition of "more" and "less" in our experience — which is basic to Lewis' view of knowledge — none of our formulas or instruments for measurement would make sense. Of course, measurement of more and less involves an element of convention, but this is as true of calories in dietetics and of ergs or foot-pounds of work in physics as it is of enjoyment or suffering. And, according to Lewis, this element of convention is present not only in measurement but in any application of any concept to any experience (p. 110).

For Lewis to give up as hopeless the effort to group and compare value experiences (pp. 488–95) — something that he tries very hard to validate (pp. 541–51) — is truly a pity. Men knew enough to compare tasks and food values before the necessary logical formulas for the process were worked out; otherwise they would not have survived the hostile forces and predicaments that nature poses. It does not take a superhuman faith to suppose that men can weigh the enjoyments of the many against the enjoyments of the few for a few more years or centuries until our scientists have devised the calories or foot-pounds or ergs to measure human suffering and human happiness in more exact and refined ways than those of common sense. As a wise French jurist has said, it is not necessary to throw to the dogs all that is not fit for the altars of the gods.

Despite these curable lapses in Lewis' effort to establish the possibility of systematically interconnected ethical observations and judgments, the argument of the volume moves with an irresistible pachydermal force. Myriads of actual or possible objections or misunderstandings are always being pushed out of the path of the argument. Indeed from a

philosophical, as well as a literary, point of view, it may be said that Lewis overargues his case. Surely it is not necessary to argue that "knowing is for the sake of doing" (p. 3) — a view which most wise men in the East and many wise men since Aristotle in the West have found it possible to reject — in order to establish the fact, which is central to Lewis' main thesis, that empirical knowledge is always relevant to doing and is either confirmable or disprovable by experience, and that intellectual construction — whether of statutes or of rules and concepts of natural science — involves constructing as well as construing. In this sense, at least, action is an essential part of understanding, whether the understanding be directed to cabbages or to kings.

The demonstration that we do not suddenly move from an objective world to a subjective world when we move from the appraisal of cabbages to the appraisal of kings is one of the outstanding demonstrations of a philosophy that has digested the meaning of modern logic and operational method. To that logic and method no living American philosopher has made larger contributions than has Professor Lewis. His *Mind and the World Order* is one of the great philosophical books of the century. The present treatise is a worthy sequel to that work.

FELIX S. COHEN.*

THE UNION CHALLENGE TO MANAGEMENT CONTROL. By Neil W. Chamberlain.¹ New York: Harper & Brothers. 1948. Pp. x, 338. \$4.50.

The growth of large-scale, pervasive trade unionism with its accompanying challenge to managerial control marks one of the fundamental shifts in power during a period already shaken with multiple shifts in power. Professor Chamberlain examines this shift now evolving at the very core of industry — large-scale corporate enterprise — to discover whether the necessary transition can be made planfully and peacefully within our present institutional framework. He seeks answers to this crucial question through the experience of large corporations in six industries with the unions representing their employees. The industries upon which study is concentrated are automobile manufacturing, steel production, meat packing, public utilities, rubber, and electrical equipment. Illustrations from varying records in these industries, — and others too — from interviews, agreements, grievance procedures, private correspondence, arbitrators' decisions, and the like, are scattered through the thirteen chapters of the text, and selective summaries of findings in the first four industries are presented in appendices.

The heart of the text itself, however, is something different, something neither continuously related to, nor consistently rooted in, the

* Member of the New York and District of Columbia Bars; Visiting Lecturer, Yale Law School and College of the City of New York.

¹ Research Director, Labor and Management Center and Assistant Professor of Economics, Yale University.